

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF  
ILLINOIS**

**KELVIN DEES,  
#Y42416,**

**Plaintiff,**

**v.**

**IDOC,**

**Defendant.**

**Case No. 23-cv-03359-SPM**

**MEMORANDUM AND ORDER**

**MCGLYNN, District Judge:**

Plaintiff Kelvin Dees, an inmate of the Illinois Department of Corrections currently incarcerated at Big Muddy Correctional Center, brings this civil rights action pursuant to 42 U.S.C. § 1983 for the deprivations of his constitutional rights that occurred in relation to his release from custody in December 2022. This case is now before the Court for preliminary review pursuant to 28 U.S.C. § 1915A. Any portion of the Complaint that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law is immune from such relief must be dismissed. 28 U.S.C. § 1915A(b).

**THE COMPLAINT**

Plaintiff alleges that on December 21, 2022, he was released on parole from Big Muddy River Correctional Center. (Doc. 1, p. 32). Rather than taking him to his halfway house, security staff dropped Plaintiff off at a police station parking lot, where he was robbed at gun point. Plaintiff asserts that he also was not given his mental health medication, which was allocated for his pre-release. (*Id.*).

### DISCUSSION

Plaintiff has failed to state a claim, and the Complaint will be dismissed without prejudice. *See* FED. R. CIV. P. 8(a). Plaintiff only names IDOC as a defendant, and IDOC is not considered a “person” subject to suit for money damages under Section 1983. *Thomas v. Illinois*, 697 F.3d 612, 613 (7th Cir. 2012). Neither can a state agency be sued for prospective injunctive relief in federal court. *See Quick v. Ill. Dep’t of Fin. & Prof’l Regulation*, 468 F. Supp. 3d 1001, 1009 (N.D. Ill. June 23, 2020) (collecting cases). Because Plaintiff has not named a suable individual or entity, his claims do not survive preliminary review.

### DISPOSITION

For the reasons set forth above, the Complaint (Doc. 1) is **DISMISSED without prejudice** for failure to state a claim for relief.

Plaintiff is **GRANTED** leave to file a “First Amended Complaint” on or before **January 10, 2024**. Should Plaintiff fail to file a First Amended Complaint within the allotted time or consistent with the instructions set forth in this Order, the entire case shall be dismissed with prejudice for failure to state a claim, failure to comply with a court order, and/or for failure to prosecute his claims. FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994); 28 U.S.C. § 1915(e)(2).

It is strongly recommended that Plaintiff use the civil rights complaint form designed for use in this District. He should label the form, “First Amended Complaint,” and he should use the case number for this action (No. 23-cv-03359-SPM). To enable him to comply with this Order, the **CLERK** is **DIRECTED** to mail Plaintiff a blank civil rights complaint form.

An amended complaint generally supersedes and replaces the original complaint, rendering the original complaint void. *See Flannery v. Recording Indus. Ass’n of Am.*, 354 F.3d

632, 638 n. 1 (7th Cir. 2004). The First Amended Complaint must stand on its own without reference to any previous pleading. Plaintiff must re-file any exhibits he wishes the Court to consider. The First Amended Complaint is also subject to review pursuant to 28 U.S.C. § 1915A.

Finally, Plaintiff is **ADVISED** that he is under a continuing obligation to keep the Clerk of Court and each opposing party informed of any change in his address; the Court will not independently investigate his whereabouts. This shall be done in writing and not later than 7 days after a transfer or other change in address occurs. Failure to comply with this Order will cause a delay in the transmission of court documents and may result in dismissal of this action for want of prosecution. *See* FED. R. CIV. P. 41(b).

**IT IS SO ORDERED.**

**DATED: December 11, 2023**

*s/Stephen P. McGlynn*

**STEPHEN P. MCGLYNN**  
**United States District Judge**